

CANADA - BRITISH COLUMBIA

FISH HABITAT MANAGEMENT AGREEMENT

Between: The Government of Canada as represented by the Department of Fisheries and Oceans (herein after referred to as Canada)

And: The Government of British Columbia as represented by the Ministry of Environment, Lands and Parks and the Ministry of Agriculture, Food and Fisheries (herein after referred to as BC)

1.0 Preamble

Whereas, the Government of Canada has jurisdiction for seacoast and inland fisheries, as provided for under the *Constitution Act, 1867*, and legislative responsibilities for the protection of fish habitat, as provided for in the federal *Fisheries Act*, guided by national policies, guidelines, standards and procedures; and

Whereas, the Province of British Columbia has jurisdiction over privately held lands and over provincial crown lands and resources as provided for in the *Constitution Act, 1867*, and pursuant to administrative agreements, has responsibility for the management of fish and fisheries in non-tidal waters, guided by provincial policies, guidelines, standards and procedures; and

Whereas, the Governments of Canada and British Columbia share mutual interests in cooperating to conserve and protect fish and fish habitat and have expressed this commitment with regard to salmon in the 1997 Canada - British Columbia Agreement on the Management of Pacific Salmon Fishery Issues, and both parties continue to support the principles and commitments set out in section 4, *Protecting the Resource and its Habitat*, of that Agreement; and

Whereas, the Governments of Canada and British Columbia recognize the importance of the fisheries resources and fish habitats to the economic well being and social fabric of British Columbia communities and First Nations, and both governments are committed to conserving, enhancing, and protecting the fisheries resource, fish habitats and the aquatic environment, as per the 1999 Agreement on Interjurisdictional Cooperation with Respect to Fisheries and Aquaculture; and

Whereas, the Governments of Canada and British Columbia are committed to work together to conserve and protect fish habitat in support of sustainable fisheries for present and future generations of Canadians.

Therefore, the Governments of Canada and British Columbia agree to the following Canada - British Columbia Fish Habitat Management Agreement.

2.0 Purpose & Objectives

This Agreement is intended to increase certainty, consistency and efficiency in the protection of fish habitat and the delivery of fish habitat protection programs to reach the highest standards of protection that can be achieved in the province of British Columbia through the implementation of federal and provincial legislation, regulations and policies identified in Annex 1. Specifically this Agreement commits Canada and BC agency staff to:

- 2.1 coordinate work activities to ensure comprehensive and effective protection of fish habitat, and that decisions are made in an efficient and timely manner;
- 2.2 establish, wherever possible, clear, comprehensive and harmonized policies, standards, guidelines and procedures to guide decisions in protecting fish habitat;
- 2.3 pursue cooperative arrangements with local governments, First Nations, industries and non-government organizations to enhance the protection of fish habitat; and,
- 2.4 monitor, evaluate and report on the implementation and ongoing delivery of this Agreement.

3.0 Scope of Application

This Agreement:

- 3.1 Applies to all freshwater, estuarine and marine fish and fish habitats in BC, as defined in Annex 2; and
- 3.2 Does not delegate regulatory or legal decision-making authority from either party to the other and deals solely with clarifying the frameworks for decision-making used by Canada and BC and improving administrative arrangements for the protection of fish habitat.

4.0 Specific Provisions

Canada and BC agree and direct agency staff to:

- 4.1 Establish a Federal-Provincial Habitat Management Committee at the director level or equivalent, including field representation, and develop appropriate terms of reference and an annual work plan within six months of the signing of this Agreement. This Committee will meet annually or more frequently as required to:
 - 4.1.1 Oversee the implementation and ongoing delivery of this Agreement;
 - 4.1.2 Monitor, evaluate and report to senior officials on the implementation and ongoing delivery of this Agreement;
 - 4.1.3 Examine and pursue opportunities and ensure appropriate consultation between the two parties during amendments or development of legislation and regulations related to fish habitat protection;

- 4.1.4 Provide for the development and delivery, wherever possible, of clear, consistent and comprehensive harmonized policies, standards, guidelines and procedures to ensure the integrated conservation and protection of fish habitat;
- 4.1.5 Establish joint strategic objectives and priorities for fish habitat protection;
- 4.1.6 Examine and pursue opportunities to enable additional cross-designation of fish habitat protection enforcement powers;
- 4.1.7 Pursue cooperative arrangements with all orders of government, First Nations, industries and non-government organizations to achieve the purpose and objectives of this Agreement;
- 4.1.8 Identify fish habitat inventory/information and research needs and priorities;
- 4.1.9 Standardize the operational definition and field application of fish habitat protection policies, standards and guidelines and associated mitigation and compensation measures; and,
- 4.1.10 Provide for means to achieve administrative and functional efficiencies by supporting and coordinating joint training programs for internal staff and external parties to expand fish habitat protection capacity and increase consistency in approaches.
- 4.2 Establish Local Habitat Management Committees, or utilize appropriate existing management committees or decision-making frameworks (e.g., Provincial Inter-Agency Management Committees), to develop a coordinated local approach to:
 - 4.2.1 Setting joint objectives for fish habitat protection including but not limited to:
 - a) priorities for fish habitat protection, inventory/information and research needs; and,
 - b) establishing common boundaries for worksharing purposes;
 - 4.2.2 Supporting inclusive and integrated watershed planning processes, as defined in Annex 2, that identify fish and fish habitat requirements;
 - 4.2.3 Ensuring that fish and fish habitat requirements are incorporated into natural resource allocation and land use planning for urban, rural, agricultural and forest lands, and marine environments;
 - 4.2.4 Processing inter-agency referrals in a manner that increases effectiveness and reduces agency work loads through the use of:
 - a) identified specific activities that do not require referrals;
 - b) guidelines to protect fish and fish habitat;
 - c) approaches to provide for improved coordination and efficiency in the management of fish habitat referrals (such as, one window service, worksharing agreements, areas of specialization);
 - d) coordinated fish and fish habitat information; and,
 - e) communication materials that increase public and proponent awareness of fish habitat protection requirements and approval processes;

- 4.2.5 Providing coordinated fish and fish habitat information to environmental impact assessments under the Canada and British Columbia Environmental Assessment Processes;
- 4.2.6 Monitoring for compliance with respective to legislation and/or advice provided to proponents, including but not limited to the setting of priorities, plans and the use of joint:
 - a) monitoring processes and procedures; and,
 - b) standards and indicators;
- 4.2.7 Monitoring the effectiveness of fish habitat guidelines and advice provided to proponents, including but not limited to the setting of priorities, plans and the use of joint:
 - a) monitoring processes and procedures; and,
 - b) standards and indicators;
- 4.2.8 Improved fish habitat protection enforcement including but not limited to:
 - a) setting enforcement priorities in consultation with respective enforcement staff;
 - b) examining options for enforcement and technical support teams that will specialize in fish habitat protection enforcement issues; and,
 - c) sharing of expert witnesses and technical support within the region;
- 4.2.9 Pursuing cooperative arrangements with all levels of government, First Nations, industries and non-government organizations to achieve the purpose and objectives of this Agreement at the local level; and,
- 4.2.10 Ensuring that administrative and functional efficiencies are achieved by considering options for co-location of staff, and supporting and coordinating joint training opportunities for internal staff and external partners to expand fish habitat protection capacity and increase consistency in approaches.

5.0 Issue Resolution

Canada and BC will resolve issues regarding the implementation of this Agreement in a timely manner using mechanisms available at the staff and senior executive level and through the Local and Federal-Provincial Habitat Management Committees. Issues remaining unresolved will be finally determined by the pre-eminent jurisdiction responsible for the matter under consideration.

6.0 Reporting Process

Canada and BC are committed to joint monitoring, evaluating and reporting on the implementation of this Agreement on an annual basis to the respective Deputy Ministers.

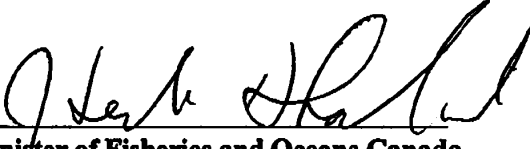
7.0 Term

The signatures of the parties will initiate this Agreement. Either Canada or BC can terminate this Agreement on three months written notice to the other party.

This Agreement will be reviewed by respective senior executives three years after the date of its coming into force to evaluate its effectiveness and to make appropriate mutually acceptable adjustments as required. Additionally, the Agreement can be amended at any time with the approval of both parties.

8.0 Signatures

GOVERNMENT OF CANADA


Minister of Fisheries and Oceans Canada

Date:

GOVERNMENT OF BRITISH COLUMBIA


Minister of Agriculture, Food and Fisheries

Date:


Minister of Environment, Lands and Parks

Date:

ANNEX 1

As stated in section 2.0 (Purpose and Objectives), this Agreement will be achieved in the province of British Columbia through the implementation of the following federal and provincial legislation, and the regulations and policies thereto, including, but not limited to:

FEDERAL:

- *Fisheries Act*
- *Canadian Environmental Assessment Act*
- *Oceans Act*

- *Policy for the Management of Fish Habitat*
- *Habitat Conservation and Protection Guidelines*
- *Decision Framework for the Determination and Authorization of Harmful Alteration, Disruption or Destruction of Fish Habitat*

PROVINCIAL:

- *BC Environmental Assessment Act*
- *Environment and Land Use Act*
- *Environmental Management Act*
- *Fish Protection Act*
- *Forest Practices Code Act*
- *Forest Land Reserve Act*
- *Municipal Act*
- *Waste Management Act*
- *Water Act*
- *Wildlife Act*

ANNEX 2

Definitions

For the purpose of this Agreement, the following definitions apply:

"Fish" includes:

- (a) all fish and parts of fish,
- (b) all aquatic invertebrates and parts of aquatic invertebrates, and
- (c) the eggs, sperm, spawn, spats, larvae and all other life stages of fish and aquatic invertebrates.

"Fish habitat" means spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes and includes environments that:

- directly or indirectly support fish stocks or fish populations that sustain, or have the potential to sustain, subsistence, commercial or recreational fisheries; or,
- directly or indirectly support or have the potential to support, native wild fish populations; or,
- although not directly supporting fish, provide nutrients and/or food supply to adjacent or downstream fish habitat or contribute to water quality for fish; or,
- could contribute to the recovery of fish species at risk; or,
- have been identified by Canada and BC for investments in fish habitat restoration or enhancement.

"Cross-designation of fish habitat protection enforcement powers," means the appointment or designation of appropriate and qualified federal or provincial staff under their respective legislation with the powers to fully and legally undertake fish habitat enforcement duties and responsibilities.

"Integrated watershed planning", refers to watershed fish production planning referenced in section 4.1 of the 1997 Canada-BC Agreement on the Management of Pacific Salmon Fishery Issues, and means a long term, strategic plan that defines objectives on a watershed basis, for fish populations, habitat protection, restoration and development, research and inventory.

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